



**Greg Dunn**

206 Lafayette Avenue

Block: 85 Lot: 28.

**Calendar BOA 15-85-28**

Attorney: Mr. DeAngelis

Engineer: Mr. T. Murphy

Mr. DeAngelis said this application was to install a circular driveway in the front of the house. A variance was needed for the grading 10 ft. away from the foundation. He asked the Mr. Murphy come forward to further explain the application.

Mr. Murphy (sworn) pointed out that the property was located on Lafayette Avenue in the R2 zone. The proposed curved drive is to improve circulation and give better access to and from the house. The impervious coverage is approx. 414 sf over what is allowed.

Mr. Vivona – to clarify – the reason for the circular driveway is because of the curve in the road it is difficult to get out of the driveway. Applicant confirmed.

Mr. Murphy showed where the high school was located in proximity of the property.

Mr. Vivona advised the applicant that the site visit would be on October 3<sup>rd</sup> at 9 AM. He asked that Mr. Dunn mark out the area so the Board Members would be able to have an idea of what is proposed. Application will be carried to the October 29<sup>th</sup> meeting with no further legal notice.

**Mr. Hoe Jung**

2 Country Club Road,

Block: 102.03 Lot: 1.

**Calendar BOA 15-102.03-1**

Engineer: Mr. Martins, sworn

Applicant: Mr. Jung, sworn

Mr. Martins said we were here seeking a variance for a driveway waiver of 24 ft. Mr. Jung applied for permits to construct. During the course of this construction there was one tree Mr. Jung wanted to save. Unfortunately the tree was located close to the proposed location of the driveway. He directed his contractor to save the tree and in doing so the drive was narrowed to 21.5 ft.. This is a side loading garage. The entire driveway is not 21.5 ft. but the closest point to the tree. There is no difficulty going in and out of the garage. As you approach the first garage it is 25.9 ft..

Mrs. Kennedy asked if an arborist had been out as the leafage looked a little thin. She was advised that Mr. Jung had not had anyone to look at the tree but felt that, unfortunately, the drought conditions may have impacted the tree. He is trying to save the tree. Trees in county right of way were discussed.

Mr. Vivona scheduled a site visit for October 3<sup>rd</sup> at 9 30 AM. Applicant was advise that the application would be carried to the October 29<sup>th</sup> meeting without further legal notice

**Mr. & Mrs. Black**

**Calendar BOA 15-48.04-16**

52 Thornley Drive,  
Block: 48.04 Lot: 16.

Ms. Sidney Boerner, Architect

Mrs. Black said they had lived in the house for nine years with their 4 children. Before we considered renovations we had consider looking for another home but could not find a house that offered the same privacy that our home has. We decided to hire Sidney and we have gone over all the options for the house. We feel what will be presented is the best choice. We have spoken to many of the neighbors about what we are proposing and they seem to be agreeable.

Ms. Boerner said the proposed rear yard setback would be 47 ft. because of a previous addition of a one story room off the back corner where 50 ft. was required. It is an existing non-conformance. She gave a brief description of the changes proposed for the first floor. At the basement level will have no additions but we just plan to refinish it. We will be creating a new master suite over the previous addition so again there is the rear yard setback. By doing this we also solve a problem with the existing roof line.

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Color rendering – Exhibit A8 was passed around for the Board review. They show various views, portico and trees. She also noted that the drainage patterns will not be changed.

Mr. Vivona scheduled a site visit for October 3<sup>rd</sup> – 10.00 and advised that the application would be carried without further legal notice to the next schedule meeting – October 29<sup>th</sup>. Applicant asked to outline the area affected.

**Mariam Vaziri**

**Calendar BOA 15-20-15**

43 Susan Drive  
Block: 20 Lot: 15.

Front yard , steep slope, height of principal building, setback distance of a structural retaining wall and maximum height of a structural retaining wall variances to construct a single family dwelling.

Attorney, Mr. Quinn  
Engineer, Mr. Moschello  
Planner, Mr. J. Dowling

Mr. Quinn noted the concerns of the Board and said they have tried to address all of the concerns. Variances request: Steep Slope, Height, Front Yard.

Mr. Moschello had 2 exhibits (A29) which is a color print – revised elevations of the house.. He said he would like to start with the height of the building. When you look at the previous elevation (A23) you will note a change. The roof line was higher on the right has now been brought down. With that change

the height is now 39.6 ft. The front of the house from the first floor elevation to the peak of the roof was previously 24.6 1/2 and we are now down to 22.8 which is measured from the front floor to the peak of the roof. This house, when compared to next door, is actually lower.

The materials of the house— essentially it is a timber line roof with synthetic tile in certain areas all of which are shown on the plan. The railings are also added to the plans. In terms of the architecture we have submitted a plan showing the calculations the stories, etc. Re: exhibit A30 dated 9.17/15 shows the soil erosion control, utilities plans. We added a fence by the easement. Pictures showing the sequence of construction for drainage have been added.

There was some discussion about the disturbance on site. The temporary disturbance of 2560 sf. which basically represents area shown on plans (conservation area back) The permanent disturbance is where the home site is placed and is 6086 sf.

There was a question regarding the number of trees to be removed. We estimate 15 trees in the house site/driveway.

Mr. Vivona noted that we had discussed the staging of the fills.

Mr. Moschello said the material will be taken off site. The plans also call for road padding.

Mr. Vivona appreciated all the changes that have been made. You have redesigned the house at least three times. The main thing is the sequence of construction. He asked Mr. Ruschke for his comments.

Mr. Ruschke said the applicant did address his concerns. He has addressed a lot of the comments raised and the contingencies that we have incorporated through other for safety sake. A condition added in the last application was for inspections to be done before and after significant work to ensure safety. They have brought the height down. He believes it is still a D variance.

Mr. Shaw said the basic issue is the same but it requires a super majority to approve it – 5 affirmative votes. The justifications would be based upon the planning criteria. They can proceed this evening but there are not enough people to vote on it. We will distribute copies of the tape to members not present this evening.

Mr. Vivona asked for question from the public regarding Mr. Moschello's testimony. None Heard.

Mr. Quinn then introduced Mr. James Dowling, Planner

Mr. Dowling (sworn) submitted exhibit A31 – Aerial Topo dated 2012 (Morris County) of the subject property. The application before the board involves a 2.5 story structure. The lot area is about a half acre (200 x 120 ft). It is a relatively steep lot. This lot was created by a subdivision many years ago. R3 district permits single family homes. There have been several meeting on this application. We received direction/guidance from the Board and have been working diligently and trying to cooperate to improve the plan. The front yard changed from 25 ft. to 28 ft. There was a very large retaining wall in the back

which has been eliminated. It reduces the mass of the proposed. We now have a number of decks on the rear of the building. The height has been reduced to 39.6 ft. (5.5 ft. reduction). We have also added a tier return on the west side – there is a small retaining wall to allow stairwells. We have a phasing plan. We have added a split rail fence along the conservation easement for safety. The materials used would be neutral in color. Our focus has been to create a structure that would be at minimum consistent with the neighborhood. What is proposed would be a positive addition to the neighborhood.

	Permitted	Proposed
The variances requested are: Disturbance of 25% or greater slope	500'	5,717'
Building Height	35'	39.62'
Front Yard Setback	50'	28.1'
Existing Grade (raise part of lot)		
Min. Setback from property line		
to retaining wall on S/E corner	12'	6'
Minimum slope away from foundation	10'	1'
Minimum setback from principal		
Structure to retaining wall	20'	5'
Min. setback from structure – retaining wall	15	0'

Proofs Required. All the variances other than the height are C variances. From his prospective what we are talking about is hardship which constitutes special reason. The 82 ft, change from front to back (flat to steep) requires us to ask for the variances. Really to make this work we needed to have this structure along the platform in the front of the lot. Because of the exceptional topographic of this lot we can't push it back any further. All the other variances are related to the topography of the site. He would suggest that there really aren't any negatives. The granting of this relief would not really impair the zoning ordinance. Any lots on Susan are going to need comparable variances to develop the lots. We have tried to minimize to the maximum extent. 35 Susan Drive is somewhat comparable to this property.

The next question is the B6 variance for the height. As we began there is 35 ft. max. height permitted and we are proposing 39.62 which equates to the D variance. What he would like to do is address special reasons which constitute this variance. The first is the way the building height is calculated within the Township. Effectively it is based on the average of the low and the high. He compared some of the other homes located on the other side of Susan Dr. range from 23-26 ft. We are below the perceived height. The floor area of the building (first, second level – above grade) is about 2900 sf. The other houses in this area are approx. 3100 sf. This is not a massive house but one that is in scale with the adjacent neighborhood. The materials used will be sympathetic to the neighborhood. We feel there is no substantial detriment. We are consistent with the neighborhood. We are requesting 6 variance (C) and 1 (d).

Mrs. Kenny felt it was not ideal but we have to work with them. The slopes do present problems. They have addressed any concerns that we have had and things we have learned in the past.

Mr. Vivona said they had addressed all of their concerns and asked if the public had any questions of Mr. Dowling. None Hear.

Mr. Vivona said there were not enough people present tonight to take a vote on the D Variance.

Mr. Shaw said we should ask if any member of the public wanted to comment of the application. None Heard. Public Portion closed.

Mr. Shaw said the next schedule meeting is for October 29<sup>th</sup>.

Mr. Quinn questioned a special meeting.

Mr. Shaw said there was a special meeting scheduled. If the Board wanted they could list this on the agenda for the 14<sup>th</sup>. He noted again that they needed at least 5 members to vote.

Mr. Quinn was concerned as the applicant would like to move forward if possible before the cold weather sets in.

Mr. Shaw suggested that the matter be carried to the 14<sup>th</sup> and for whatever reason there are not enough people we then carry it to the 29<sup>th</sup>.

**Mr. & Mrs. Lima**

12 Mitchel Avenue  
Block: 109 Lot: 27..

**Calendar BOA 15-109-27**

Mr. Petry, Engineer

Site Report of 9/16/15 read into the Record

Mr. Petry said the board had witnessed on Saturday that the rear of the property has been well improved. Including that improvement a replacement of what had been a historic wall along the property line Photos have been submitted for your review. Additionally, he believes that photos have been submitted by the Municipal Representatives showing the previous conditions as well as the current conditions. Ultimately what we are looking at is a retaining wall constructed along the sideline of the property between lot 27 and 26. The wall was reconstructed, replacing the existing wall that had been there. Elevations were raised up to approximately a foot in some locations. (Note: There is no topographical record that tells us what the grades were) The applicant requires relief from three municipal ordinances. 1 – retaining wall height 2 – grading raised the elevation within 5 ft. of the property line 3- grading is deeper than 1 on 3 in a limited area. The property was subjected to erosion along the wall for a great period of time. The grade abutting that wall (shown in recent photos) was in excess of 1 or 3. That slope wall stabilized this area for a long period of time and it reached back to a concrete wall. The area immediately behind the stone portion of the wall (closest to house) is where the erosion took place. That is where the portion of the wall was raised. It appears that the work that had been performed had completely eliminated the erosion problem. It is important to recognize that the stone wall not only has only been there, we recognize the fact we made it higher but we didn't put in something new. It is also critical to understand that the new wall ties into the existing wall of the adjacent property at the same elevation. We had not raised property above the developed portion of the adjacent property and the retaining wall on the adjacent property is the same height as the new stone wall built. In Mr. Petry's opinion this wall meets the criteria for a landscape wall. In terms of the setback it is important to recognize that we replace/reconstructed an existing wall. We didn't build a new one. We move it further

from the line than what existed in the historic survey and information we do have. That wall is on the line as shown on the survey. That portion of the retaining wall, as noted in the site visit, is still there and the corner marker is too. We pulled it back slightly from the line. We did that at the request of the neighbor. When it was being built and specifically asked in writing to ensure that the wall did not encroach on the neighboring property. When it was reconstructed he had his landscaper pull it back from the property line. I recognize the fact that by making the wall higher in the area closest to the house we had raised the grade within five feet from the property line which requires a variance. Also recognized that in the area abutting the property line we still have grades slightly greater than one on three. We can't do anything about those grades without grading on lot 26. We are not sure that is a practical approach. These improvements by the applicant to the property represent a significant drainage improvement as they eliminated an erosional problem which historically existed on this site. The original problem not only affects this property but also the downstream drainage system. In Mr. Petry's opinion raising the grade in this particular area to eliminate that erosion is in keeping with purpose B which is protecting from flooding in the MLUL. Furthermore, for those that weren't there he believed that the improvement made promoted desirable visual environment. They have the similar wall style. They improved the landscaping and ground cover within the property. In Mr. Petry's opinion advancing these two purposes of zoning provides for the criteria that are required for this Board to consider the variances requested. When He evaluates the detriments he looks at the purpose of the ordinance which is to ensure that property owners doesn't cause harm to their neighbors in terms of drainage, elevations. The downstream properties are all the same height. Water is flowing as it always has. We are negatively impacting them with what we are asking to do. By creating this wall a little higher than it had been we are not burdening the property but protecting it from the erosion that had historically occurred. In this instance, all the properties in the area drain to this water course in a south westerly direction toward the great swamp. The improvements clearly solve the erosion problems that plagued the area. The benefits of approving these variances outweigh the detriments. With regards to the negative criteria know that the improvements to the property were relatively minor in nature. The minor changes, while they conflict with the ordinance, makes an improvement in what the ordinance is trying to do. There is not substantial difference between what was constructed and the settlement of the stone on the slope. There is not a substantial detriment to the public good. Changing the wall from its original location is minor as well as the height of the wall. There is no substantial impairments. It represents a benefit and something that is reflective of the intent of the ordinance. Mr. Petry felt the variances could be approved under the C2 criteria.

Mrs. Romano asked if this was for a variance on something that had already been completed. She was advised that it was.

Mr. Lima explained the reasons for this application.

Mr. Williams asked if the applicant was not aware of variances. Could the wall be built so there is no variance needed?

Mr. Petry said to eliminate the variance for not raising the grade within 5 ft. from the property line we would have to take the wall down to what it was before and would put us in the same erosional position. If you look at the diagram in the upper corner of the drawing we submitted you can see that the original stone slope was shown and the grade drops down into that. The wall originally was cinderblock and then changed to a stone wall as it got closer to the bridge.

Mr. Hyland asked if we were to draw a straight line from the cinderblock wall is that would be the property line. Mr. Petry agreed.

Mr. Petry re: A12 photo shows the current condition of the new stone wall as it abuts the original block wall in the rear portion of the property. The top of the wall is approximately the same height and meets

the height of the cinder wall on the adjacent property (shown in photos presented). The old wall is about 91.1 elevation which is the same of the stone wall in the rear and the front. The property is not level so it varies.

Mrs. Kenny was reading the report and was looking at things about notice of violation – April 3, 2014 and then there was a review on January 19, 2015. What happened in between those two dates.

Mr. Petry said the applicant was notified of the violations. They engaged us to do the plans in the fall of 2014. We tried to get the survey done as quickly as possible then submitted the plans.

Mrs. Kenny - so you got a notice of violation then it was up to the homeowner to submit a grading plan?

Mr. Petry said Mr. Lima had talked to people about it, submitted the plan as quickly as possible for review because of the variances.

Mr. Lima had been given notice and advised them that he had engage you and was working on a lot grading plan. The original work was done in 2013.

Mrs. Kenny asked when the home was purchased and was advised it was 2009. She asked if the Lima's were the ones who filled the back area to create the lawn area.

Mr. Petry said he had the survey of the property when he brought the property and the stream started where it is located on our plan today. No he did not fill it in.

Mr. Lima it was done before they had purchased the house.

Mr. Vivona asked if there was anything else from the Board. None Heard.

Mr. Vivona asked if there were any questions of the witness from the Public.

Mr. Gian said he was the owner of the adjacent property. (inaudible)

Mr. Petry said the wall was there when the property was purchased. We have no idea what the previous owner had done.

Mr. Guan about previous permissions for this property

Mr. Shaw noted that there is an existing condition that has been testified to where they replaced the wall that goes back thirty years. Mr. Shaw questioned the original survey.

Mr. Petry said the original survey had been provided to him from he believed was in the 80's shows the masonry wall on the property line.

Mr. Lima said the wall was there when he purchased the property.

Mr. Petry said again, that the new wall is at the same elevation as the existing wall. From that prospective our property wasn't raised higher than yours. I also indicated that it would be slightly less for storm water onto your property because of the grade. The area on our property that is slightly greater than the 1 on 3 slope is an ordinance requirement for steep slopes. Because we had to meet the grade between the two parcels we can't change it without grading onto your property.



Member of the Audience thought that Mr. Lima may have tried to solve the problems as he saw it. He was not aware, or made aware of the violation until almost a year after the construction was completed.

Meeting opened for comments from the public:

Mr. Guan wanted to express his concerns. He had some pictures to show the Board (objector 1 - exhibit) and gave a brief description of them. He noted was not aware of the hearing until notified. (Unfortunately I had trouble transcribing as it was difficult to understand)

Mr. Shaw said a Use Application is reviewed on its own merits. This does not stand as a precedent for any other approvals. You would need to present your application for similar relief by filing it with the Board. But the fact that the Board does or does not grant variance for another property is not applicable for your property.

Mrs. Kenny asked if Mr. Guan's complaints are not the wall but the buildup of leaves, etc. on your property. Even though their attorney testified that he thought the wall helped the drainage/erosion issues on your property you are saying that is not true, that you have more problems because of the wall.

Mr. Guan agreed and explained why. The previous wall was not a problem. Since built there is an accumulation of pebbles.

Mrs. Romano asked if the pebbles were there to possible help with the runoff?

Mr. Petry asked if he would like the applicant to come in and pick up the pebbles. Mr. Guan said he would.

Mr. Robert Clark, neighbor said he was one door down from the complainant. A letter dated August 12<sup>th</sup> had been submitted for the August 20<sup>th</sup> meeting but he now understands that you are unable to accept a written document so he wanted to read the letter tonight. It may also answer any potential impact down the stream. Summary of letter: "I am writing for the application for Lima for variance described in the recent legal notice. I request this letter serve as my statement recommending approval of the variances application. It is apparent that something happened upstream of the Lima property that resulted in significant water that necessitated corrective actions. As a downstream neighbor I appreciate the efforts of the Lima's to correct this serious groundwater problem.. The retaining wall, grading etc. benefits all of the neighbors and should be maintained in its present design. Robert Clark"

He went on to say that due to the slope of the land if there were any ongoing drainage problems he would be a recipient of an increase of water flow. The work done was top notch and there are no water problems. It is aesthetically pleasing. In answer to Mrs. Kenny he said if you were to start at the top of the Lima property he would be downstream and the other neighbors on Mitchell Avenue – if corrected actions at the Lima level the water would flow down to us. He noted that between the Lima property and his there is a drainage ditch which drains into a culvert.

Mr. Guan outlined several properties and the flow of water to his property. The triangular portion is more wet now that the work has been done.

Mr. Ruschke said if you looked at Section A you can see the original grade. You do have a controlling structure with the municipal drain. Based on your plans it should not have a negative effect on the surrounding properties.

Mr. Petry said the only thing that drains to this section is a 12 inch pipe which has a limited capacity.

Mr. Ruschke said his question was that in a large storm event you will not impact surrounding properties.

Mr. Petry did not believe it would.

Mr. Shaw asked if Mr. Guan's submission 01 where it identifies the rocks – is that an existing condition.

Discussion ensued regarding pipe/pebbles/stones.

Mr. Shaw noted that there were not enough members present to vote and would ask the applicant if then chose to vote now or carry this to another evening when there are enough voting members present and those that are not will have an opportunity to listen to the tapes.

After a minor discussion the applicant decided to carry the application to the October 29<sup>th</sup> meeting without further notice.

**Golden River Homes, Llc**

11 Sunset Drive

Block: 61 Lot: 16.

**Calendar BOA 14-61-16**

Mr. Mills said he had three witness and as it is late in the evening suggested a special meeting –

After some discussion November 12<sup>th</sup> was the date assigned.

Meeting Adjourned

Respectfully submitted:

A handwritten signature in dark ink, appearing to read "Mary Ann Fasano", written in a cursive style.

Mary Ann Fasano

Transcribing Secretary